



**FILED**

01/18/22  
04:59 PM

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	AU Docket No. 20-34
	)	
<b>LTD BROADBAND, LLC</b>	)	WC Docket No. 10-90
	)	
Petition for Waiver of Section 54.804(b)(5)	)	WC Docket No. 19-126
of the Commission's Rules	)	

To: Chief, Wireline Competition Bureau

**THIRD SUPPLEMENT TO PETITION FOR LIMITED WAIVER**

LTD Broadband, LLC hereby supplements its Petition for Limited Waiver filed June 7, 2021, as previously supplemented on June 16, 2021 and June 23, 2021, to provide the attached declarations of Corey Hauer (Exhibit 1) and Stephen Coran (Exhibit 2).

Respectfully submitted,

**LTD BROADBAND, LLC**

June 28, 2021

By: /s/ Stephen E. Coran  
Stephen E. Coran  
Lerman Senter PLLC  
2001 L Street, NW, Suite 400  
Washington, DC 20036  
(202) 416-6744  
scoran@lermansenter.com

*Counsel for LTD Broadband, LLC*

## EXHIBIT 1

## DECLARATION OF COREY HAUER

I am the President, CEO and owner of LTD Broadband LLC ("LTD Broadband"). I am making this declaration in connection with LTD Broadband's Rural Digital Opportunity Fund ("RDOF") application and a Petition for Waiver ("Waiver Request") LTD Broadband filed with the FCC on June 7, 2021 and supplemented on June 16, 2021 and June 23, 2021. I hereby certify under penalty of perjury that the statements in this declaration are true and correct.

1. LTD Broadband is a recipient of Connect America Fund ("CAF") Phase II support and an RDOF auction winner in 15 states. As the sole owner of LTD Broadband, I take very seriously LTD Broadband's obligations as a steward of universal service support. Our company is ahead of schedule in meeting our CAF Phase II buildout obligations and we are committed to moving forward with our RDOF obligations once support is authorized.
2. In connection with LTD Broadband's RDOF long-form obligations, in January 2021, LTD Broadband retained attorney Kristopher Twomey to prepare, file and prosecute applications for eligible telecommunications carrier ("ETC") designations in all 15 states, including California, as well as other state operating certificates where required to offer broadband or voice services. LTD Broadband had not used Mr. Twomey's services previously, but I was aware that another Wireless Internet Service Provider had used his services in obtaining similar authorizations for the Connect America Fund Phase II program, and this is why I hired him.
3. In March of 2021, LTD Broadband retained attorney Stephen Coran of Lerman Senter PLLC to assist us with FCC matters related to LTD Broadband's RDOF long-form application and with matters related to ETC applications in certain states. These states did not include California, which Mr. Twomey was handling. Mr. Twomey, Mr. Coran and I had status calls every week or so and maintained a shared document tracking the status of the various ETC proceedings. On this tracking sheet and in our status calls, Mr. Twomey indicated he had filed a California ETC application with the California Public Utilities Commission ("CPUC") on April 26, 2021 and it was pending. The tracking chart included a docket number.
4. In the weeks leading up to the FCC's June 7, 2021, deadline for RDOF support applicants to obtain ETC designations, it became clear that LTD Broadband would not be able to meet the deadline for a number of states, including California. I authorized Mr. Coran to draft the Waiver Request seeking a partial waiver of that deadline with the expectation that he would refer to the tracking chart, consult Mr. Twomey for the states where Mr. Twomey was LTD Broadband legal counsel, and review state commission web sites for the status. Mr. Coran emailed drafts of the Waiver Request to me and Mr. Twomey in the days leading up to the June 7 deadline. My recollection and the emails reflect that Mr. Twomey suggested various revisions to the drafts of the Waiver Request.



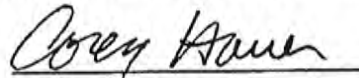
5. At 5:58 Eastern Time on Monday, June 21, 2021, Mr. Twomey sent an email to me and Mr. Coran, which is attached to this declaration. The email followed a phone call that Mr. Twomey had had earlier in the day with CPUC Associate General Counsel Helen Mickiewicz and, we later learned, Peter Pratt of the CPUC's Communications Division. I was not on that telephone call. Although the email was not clear on the details, I was alarmed at Mr. Twomey's statements, especially his identification of a "problem" and his unilateral suggestions that he withdraw as counsel in California and return a portion of the legal fees that LTD Broadband had paid to him. In addition, the June 21 email was the first time I became aware that Mr. Twomey had electronically filed an ETC application with the CPUC on the evening of June 3. From the tracking chart, I had understood that he had filed such an application with the CPUC on April 26, 2021. Upon receiving the email, Mr. Coran and I immediately spoke by phone and then had a conference call with Mr. Twomey to obtain further details.
6. During the conference call with Mr. Twomey and Mr. Coran, Mr. Coran questioned Mr. Twomey on the chronology and circumstances surrounding LTD Broadband's California ETC application. As I listened to the conversation, I became very concerned by the actions Mr. Twomey recited to us. This was the first time that these actions were revealed to me.
  - a. First, I believed that Mr. Twomey had filed the ETC application (actually, a joint application for ETC designation and an application for a Certificate of Public Convenience and Necessity, or "CPCN") on April 26, 2021. This was the date specified in the tracking chart and in the Waiver Request, drafts of which Mr. Twomey reviewed several times. On the June 21 call, however, Mr. Twomey indicated that he sent an original and four copies of LTD Broadband's California ETC application by US mail in April. Mr. Twomey indicated that he did not know that the CPUC was not accepting such applications by regular mail during the Covid-19 pandemic.
  - b. Second, Mr. Coran asked Mr. Twomey about a confirmation receipt indicating that the ETC/CPCN application was filed on April 26, 2021. Mr. Twomey admitted that he had fabricated the receipt from another application receipt, which I later learned was the receipt reflecting the successful electronic filing Mr. Twomey made on June 3. I had no knowledge of this deception prior to the June 21 conference call.
  - c. Third, Mr. Twomey also disclosed that he had "made up" the docket number for the CPUC ETC/CPCN application that was stated in the Waiver Request. He indicated that he self-assigned a docket number based on what he believed to be the next number in sequence in the CPUC's system. I had not known about this deception prior to the telephone call.



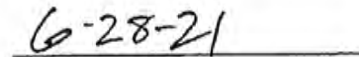
7. After the conference call, I immediately spoke with Mr. Coran. Following that call, I took the following actions to attempt to remedy the situation:
  - a. I authorized Mr. Coran to draft a declaration reciting the new, troubling facts that Mr. Twomey had disclosed to us on June 21<sup>st</sup> for Mr. Twomey to review to be submitted to the FCC. Mr. Twomey cooperated in preparing the declaration, and Mr. Coran's law firm filed it with the FCC on June 23, 2021.
  - b. On June 23, 2021, I terminated Mr. Twomey from doing further legal work on behalf of LTD Broadband before the CPUC, and on June 24, I terminated Mr. Twomey with respect to all matters he was handling for the company. Mr. Twomey has agreed to cooperate in transitioning matters to other counsel.
  - c. At Mr. Coran's recommendation, I engaged former FCC and CPUC Commissioner Rachelle Chong as new counsel with respect to CPUC matters as of June 23, 2021. I authorized Ms. Chong to speak with CPUC staff to inform them of the change in counsel and to determine the status of LTD Broadband's ETC application.
  - d. I authorized Mr. Coran to speak with the CPUC and the FCC about Mr. Twomey's actions, and specifically to inform the regulatory agencies that Mr. Twomey had acted unilaterally in fabricating information about the CPUC application filing without LTD Broadband's knowledge, and to explore how to move forward with the necessary remedial actions before each agency. Neither I nor Mr. Coran had any knowledge of Mr. Twomey's improper actions before the conference call on the evening of June 21, 2021.
8. I have read the CPUC's letter that was filed with the FCC on June 22, 2021. It references the June 21 phone call that Mr. Twomey had with the CPUC on June 21, before Mr. Twomey sent me the attached email. The CPUC's description of that phone call is consistent with the disclosures Mr. Twomey made to Mr. Coran and me later that day, with one exception. In the conference call that Mr. Coran and I had with Mr. Twomey, Mr. Twomey did not indicate that he "inadvertently" produced the falsified April 26 application receipt. Rather, he indicated to us that he had used a PDF editing function to change the date on the receipt.
9. I have read Mr. Twomey's Declaration that was filed with the FCC on June 23. Although I understand that his credibility is suspect, the statements in his Declaration generally reflect my understanding of the circumstances. In addition to the chronology of events he describes, Mr. Twomey truthfully states that at no time prior to the conference call on June 21 did he inform me about these circumstances. Mr. Twomey had many opportunities to inform me and Mr. Coran of the circumstances surrounding the CPUC ETC/CPCN application by, for example, updating the internal tracking chart, correcting drafts of the Waiver Request or simply letting us know of unresolved questions about

the status of the ETC/CPCN application. Any of those solutions would have avoided the problems that were first disclosed to me and Mr. Coran on the evening of June 21.

10. I sincerely apologize to the FCC for this unfortunate and unexpected situation. Mr. Twomey's unilateral, unauthorized and inexplicable actions do not reflect the truthfulness and transparency attributes that are important to me and have helped make LTD Broadband a successful business. I accept responsibility for engaging Mr. Twomey and I deeply regret the distractions and problems his actions have caused. As discussed above, I have taken immediate steps to terminate Mr. Twomey and to hire new counsel.
11. LTD Broadband's objective remains to be authorized to receive RDOF support in all 15 states where it is the auction winner. We are working diligently with state commissions, including the CPUC, and FCC staff to complete the tasks necessary to ensure that LTD Broadband will comply with regulatory obligations and be capable of meeting its buildout and performance obligations. I am confident in my company's continuing ability to provide high-quality voice and broadband service to rural Americans.



Corey Hauer



Date



## Coran, Steve

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**From:** Kristopher Twomey <kris@lokt.net>  
**Sent:** Monday, June 21, 2021 5:58 PM  
**To:** Coran, Steve; Corey Hauer  
**Subject:** Fwd: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission  
**Attachments:** CPUC filing receipt- efile.pdf; Exhibits final.pdf; LTD Broadband CPCN-ETC Application.pdf; LTD Broadband CPCN-ETC Application.DOCX

Hey guys- we have a problem here and need to talk about strategy.

The CPUC is reversing themselves from the email below and now says I didn't file in April. Helen essentially called me a liar on a call this morning. She said the Docket Office had no record of the April 28 filing made via mail. Apparently, the CPUC wasn't accepting paper mail filings at the time due to Covid, but the post office didn't return it to me. I got no info from the docket office so to be sure we had something on file by the 7th, I successfully filed electronically on the night of June 3rd. They do admit having record of that but still have not given it a docket number. The one that is in the FCC waiver was the next available docket number at the time. I sent you guys the wrong CPUC confirmation as well- that was for my records only. I meant to send the one confirming the filing of the 3rd and it is attached. I planned on circling back with the docket office to have the date corrected when they finally unearthed my mailed filing. That, of course, isn't going to happen now.

She said my explanation did not hold water and that the claims in the waiver for California are therefore a "real problem" and that the Commission hasn't decided if or how to address it. I can't say I blame her. Even as I type all this, I can see her point that it all sounds like a bunch of b.s. But it is the truth and I think we need to prepare to get ahead of it best we can. Two immediate suggestions:

First- I should withdraw as counsel for the CPUC application and get as far away from it as possible to avoid any more processing delays or bias. It's already been 17 days since re-filing with no action. Steve should enter an appearance as substitution of counsel. The application and exhibits are attached. I'm happy to assist in the background as needed.

Second- We should supplement the FCC waiver again with the facts before the CPUC can cause any trouble. I am happy to sign a notarized affidavit attesting to the whole CPUC timeline if need be.

Corey- I will be returning the final installment check for \$16k to cover the CPUC flat fee costs and Indiana's as well, since my participation there was really limited to introducing Nikki.

I apologize for this mess and am open to addressing it however will work best. If that involves publicly throwing me under the bus, I am totally fine with that. My only goal is for LTD to get its full RDOF funding however that may be accomplished. Let's set up a time to talk as soon as is convenient. I'm available after 3:30pst today or anytime tomorrow.

Kris

----- Forwarded Message -----

**Subject:**RE: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission  
**Date:**Wed, 9 Jun 2021 22:20:45 +0000  
**From:**Coran, Steve <[SCoran@lrmansenter.com](mailto:SCoran@lrmansenter.com)>  
**To:**Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>  
**CC:**[kris@lokt.net](mailto:kris@lokt.net) <[kris@lokt.net](mailto:kris@lokt.net)>

Thanks, Helen, we appreciate the confirmation and the follow-up.

**Stephen E. Coran**

**Attorney, Lerman Senter PLLC**

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202-416-6744 (d) | 202-669-3288 (m)

[scoran@lermansenter.com](mailto:scoran@lermansenter.com)

[Twitter](#) | [LinkedIn](#)

**LermanSenter**

**From:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>

**Sent:** Wednesday, June 9, 2021 6:16 PM

**To:** Coran, Steve <[SCoran@lermansenter.com](mailto:SCoran@lermansenter.com)>

**Cc:** [kris@lokt.net](mailto:kris@lokt.net)

**Subject:** Fw: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

Mr. Twomey and Mr. Coran -

This e-mail is to confirm that CPUC Communications Division staff have informed Michael Janson at the FCC that LTD Broadband did file with the CPUC an application for a CPCN and for ETC designation, dated April 26, 2021. Mr. Janson confirmed receipt of our e-mail. Both e-mails appear below.

We are still trying to determine why the Communications Division was not informed of the application, which was not assigned a docket number until early June. We will report back when we have an answer.

Helen M. Mickiewicz  
CPUC Legal Division  
Assistant General Counsel  
415.703.1319  
[Helen.mickiewicz@cpuc.ca.gov](mailto:Helen.mickiewicz@cpuc.ca.gov)

---

**From:** Michael Janson <[Michael.Janson@fcc.gov](mailto:Michael.Janson@fcc.gov)>

**Sent:** Tuesday, June 8, 2021 6:19 PM

**To:** Pratt, Peter <[Peter.Pratt@cpuc.ca.gov](mailto:Peter.Pratt@cpuc.ca.gov)>

**Cc:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>

**Subject:** [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Peter,

Thank you for confirming and for your efforts in this regard. It is very much appreciated.

If we have any further questions, we will be in touch.



Best,  
Michael

Michael A. Janson | Director | Rural Broadband Auctions Task Force | Assistant Chief | Office of Economics and Analytics |  
Federal Communications Commission | (202) 418-0627 |

**From:** Pratt, Peter <[Peter.Pratt@cpuc.ca.gov](mailto:Peter.Pratt@cpuc.ca.gov)>  
**Sent:** Tuesday, June 8, 2021 8:46 PM  
**To:** Michael Janson <[Michael.Janson@fcc.gov](mailto:Michael.Janson@fcc.gov)>  
**Cc:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>  
**Subject:** LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

Hello Michael,

Thank you again for reaching out and requesting confirmation of the ETC filing status of LTD Broadband LLC (LTD).

As part of a thorough investigation of this matter here at CPUC following our telephone call of this morning, our Assistant General Counsel Helen Mickiewicz spoke with LTD's counsel Steven E. Coran. Attorney Coran produced the attached receipt generated by the CPUC's Electronic Filing Services platform, dated 04/26/2021. The receipt shows that counsel to LTD, Kristopher E. Twomey, filed a document entitled *LTD Broadband CPCN-ETC Application* on that date, along with a single document containing multiple *Exhibits*.

Helen Mickiewicz communicated to Steven Coran that CPUC staff is not aware of how or why the LTD filing was not correctly forwarded to staff for our review. Counsel assured LTD's attorney that we will determine what happened.

Following our internal investigation of this matter, the communications between counsel Mickiewicz and attorney Coran, and counsel's statements to me, I can now report to you that LTD Broadband LLC did file on 04/26/2021 a combined application for CPCN / ETC certification with CPUC.

Please don't hesitate to reach me with any additional questions that you may have. - Peter

Peter Pratt  
Senior Policy Analyst, Communications Division  
California Public Utilities Commission  
[peter.pratt@cpuc.ca.gov](mailto:peter.pratt@cpuc.ca.gov)  
415-703-2627 (Direct)  
415-954-2751 (Mobile)  
415-513-1272 (Telework)

## EXHIBIT 2



## DECLARATION OF STEPHEN CORAN

I am a member of Lerman Senter PLLC, a Washington DC communications law firm. I have been practicing law for approximately 35 years, primarily before the Federal Communications Commission ("FCC"). I am making this declaration in connection with the Rural Digital Opportunity Fund ("RDOF") application and a Petition for Waiver ("Waiver Request") filed with the FCC by LTD Broadband LLC ("LTD Broadband") on June 7, 2021 and supplemented on June 16, 2021 and June 23, 2021. I hereby certify under penalty of perjury that the statements in this declaration are true and correct.

1. On March 24, 2021, LTD Broadband retained Lerman Senter to assist it with FCC matters related to LTD Broadband's RDOF long-form application. Prior to that time, Corey Hauer, LTD Broadband's owner and CEO, told me that he had previously retained attorney Kristopher Twomey to handle the preparation and prosecution of the state applications for eligible telecommunications carrier ("ETC") designations that LTD Broadband required. I informed Mr. Hauer that Lerman Senter could assist LTD Broadband with state commission work and, following subsequent conversations with Mr. Hauer and Mr. Twomey, Lerman Senter was retained to assist LTD Broadband in a few states (i.e., Indiana, Minnesota and South Dakota) and to provide assistance in other states if Mr. Twomey or Mr. Hauer requested it. Neither Mr. Twomey nor Mr. Hauer asked me for any assistance in the submission or prosecution of LTD Broadband's combined Certificate of Public Convenience & Necessity ("CPCN") and ETC application to the California Public Utilities Commission ("CPUC"). Starting soon after Lerman Senter was engaged, Mr. Hauer, Mr. Twomey and I had status calls approximately every week to discuss the proceedings in various states and maintained a shared document tracking the status of the various ETC proceedings in the 15 states.
2. As the FCC's June 7, 2021 deadline for RDOF auction winners to obtain ETC designations approached, I realized that LTD Broadband would not be able to meet the deadline for a number of states. At Mr. Hauer's direction, I began drafting the Waiver Request to seek extension of that deadline in certain states. I consulted the internal tracking chart and reviewed state commission websites to obtain information regarding the status of the applications in the 15 states where LTD Broadband was seeking ETC designation. Information that Mr. Twomey had entered in the tracking chart indicated that LTD Broadband had filed its ETC application with the CPUC on April 26, 2021. The tracking chart also indicated that Mr. Twomey had sent a letter to the CPUC on January 6, 2021, which Mr. Twomey stated was intended to seek guidance on ETC application procedures.
3. On June 4, 2021, I read an article in the trade publication Communications Daily that included the following: "The CPUC is reviewing the application and information provided



by Hankins,” a spokesperson said Friday: SpaceX and five other applications are also under review, and the agency hasn’t received applications from LTD Broadband or Commnet Wireless.” At 6:58 pm Eastern Time on that date, I emailed that quote to Mr. Twomey and Mr. Hauer under the subject line of “What gives?” At 7:02 pm Eastern Time, Mr. Twomey replied with the following: “Dunno, the spokesperson is misinformed. Attached is the filing receipt.” I responded to that reply email at 7:09 pm Eastern Time by stating: “Thanks, this is helpful.” These emails and the referenced receipt are attached hereto as Attachment A.

4. At 10:23 am Eastern Time on June 5, 2021, I emailed Mr. Twomey a draft of the Waiver Request. I stated that: “There are a number of places where we need further detail that I hope you can provide – see my questions in the margin. Please send me a redlined version showing your changes; I’ll then review, make any clean-ups, and send a clean version to Corey (cc to you) for his review.” One of my margin comments in the draft referenced the California docket number Mr. Twomey had provided and stated: “Kris – I am not seeing this in the docket listing, and the statement from the PUC spokesman is troubling. Please also check status of the June 3 Resolution – was it approved?” I received Mr. Twomey’s redlined edits at 11:17am Eastern Time that same day. These edits included revisions to the section regarding the California ETC application, but did not resolve the question posed in the margin. In response to the margin question, Mr. Twomey’s draft added a reply stating that: “I’ll check with the Docket Office on Monday morning on this. I’ll show up on their doorstep first thing on the way to the office.” These emails and the draft that Mr. Twomey revised and returned to me are attached hereto as Attachment B.
5. At 2:53 pm Eastern Time that same day, I emailed the draft to Mr. Hauer noting that there “are a few things that we need to nail down, and a few things we’ve flagged for you to add, in addition to making sure this is 1000% accurate.” The draft included the two margin notes recited above. Mr. Twomey was copied on this email. On Monday, June 7, 2021 at 5:13 pm Eastern Time, I emailed a new draft of the Waiver Request to Mr. Hauer and Mr. Twomey seeking final edits and indicating that there were “still a few loose ends.” Mr. Hauer provided some edits, none of which concerned the status of the California ETC application. Also, I spoke by telephone with Mr. Twomey shortly before 6:00 pm Eastern Time to make final changes to the Waiver Request. Again, Mr. Twomey did not provide any updates or changes to the section discussing the status of LTD Broadband’s California ETC application. He did not disclose either in his edits to the Waiver Request or during our telephone conversation the fact that he had electronically filed the ETC application on June 3, 2021 rather than on April 26, 2021 as stated in the Waiver Request. The Waiver Request was filed in the FCC’s Electronic Comment Filing



System at 6:14 pm Eastern Time that evening with both me and Mr. Twomey as co-signatories.

6. The next day, June 8, 2021, I received a phone call from Helen Mickiewicz, Assistant General Counsel of the CPUC. She asked about the representations made in the Waiver Request concerning the filing date of the CPUC ETC application. I explained that Mr. Twomey was responsible for the ETC application, and that he had provided me with the receipt showing that the application had been filed on April 26, 2021. I emailed the receipt Mr. Twomey had provided to me to Ms. Mickiewicz at 6:52 pm Eastern Time on June 8, at the time believing it to be a valid and accurate receipt evidencing submission of the ETC application. I reported the substance of my phone call in an email to Mr. Twomey the following morning, explaining that "Michael Janson at the FCC called the CPUC because they were concerned about the statement in the waiver request saying that we had filed. I sent Helen the confirmation. She apologized and said she'd follow up with Janson. But she did want to know who you spoke with. I sent Helen the confirmation."
7. On the evening of June 9, 2021, Ms. Mickiewicz emailed me, with a copy to Mr. Twomey, indicating that the CPUC had informed the FCC "that LTD Broadband did file with the CPUC an application for a CPCN and for ETC designation, dated April 26, 2021. . . We are still trying to determine why the Communications Division was not informed of the application, which was not assigned a docket number until early June. We will report back when we have an answer."
8. At 5:58 Eastern Time on Monday, June 21, 2021, Mr. Twomey sent an email to Mr. Hauer and me, which is included in the thread that is attached to this declaration as Attachment C. The email referenced a phone call that Mr. Twomey had had earlier in the day with Helen Mickiewicz of the CPUC. (Mr. Twomey indicated in our follow-up conference call, referenced below, that Peter Pratt from the CPUC's Communications Division also was on the phone call.) I was alarmed by the substance of the email and, in particular, Mr. Twomey's statement that there was a "problem" and his unilateral suggestion that he withdraw as counsel in California and return a portion of the legal fees that LTD Broadband had paid to him. In addition, the June 21 email stated that Mr. Twomey had electronically filed an ETC application with the CPUC on the night of June 3. I had no knowledge of this fact until I received the email, even though it was directly relevant to the information included in the Waiver Request. Mr. Hauer and I spoke by telephone immediately after I read the disturbing email from Mr. Twomey. We immediately had a conference call with Mr. Twomey.
9. During the conference call with Mr. Twomey and Mr. Hauer, I questioned Mr. Twomey on the circumstances surrounding LTD Broadband's California ETC application. As I listened to Mr. Twomey's responses and descriptions of the actions he took, I was both



shocked and dismayed that both I and my client had been repeatedly misled about the status of the CPUC ETC application.

- a. I believed that Mr. Twomey had filed the ETC application (actually, a joint application for ETC designation and an application for a Certificate of Public Convenience and Necessity, or CPCN) on April 26, 2021, the date specified in the Waiver Request. Mr. Twomey had the ability to edit the internal shared tracking chart, reviewed at least two drafts of the Waiver Request, and spoke with me by telephone before the Waiver Request was filed, but made no changes to this representation. On the June 21st call, Mr. Twomey disclosed that he sent an original and four copies of the application to the CPUC by US mail on the evening of April 26. Mr. Twomey also said that he did not know that the CPUC was not accepting such applications by regular mail during the covid pandemic. At various times during our status calls, Mr. Twomey did not correct the April 26 filing date, nor did he do so during his review of drafts of the Waiver Request.
  - b. I asked Mr. Twomey about the origin of the receipt he sent to me confirming receipt of the ETC/CPCN application on April 26, 2021. Mr. Twomey admitted that he had fabricated the receipt from another application receipt, which I later learned was the receipt for the ETC/CPCN application Mr. Twomey filed electronically on June 3. This disclosure was especially troubling to me because I had emailed a copy of this receipt to Ms. Mickiewicz, believing in good faith that it accurately documented the filing of the application on April 26th.
  - c. Mr. Twomey also disclosed that he had falsified the docket number for the ETC/CPCN application that was referenced in the Waiver Request. He explained that he fabricated a docket number based on his assumption of the next number in sequence in the CPUC's system. I was extremely concerned by this statement. Mr. Twomey had numerous opportunities to correct the internal tracking chart and to revise multiple drafts of the Waiver Request, and never did so.
10. Immediately after the conference call with Mr. Twomey, Mr. Hauer and I had another phone call. We were both extremely upset and disturbed by the actions Mr. Twomey described and understood that his misconduct could cause significant problems for LTD Broadband. We agreed that it was necessary to reach out immediately to both the CPUC and the FCC to advise them of the circumstances and make sure they were aware that neither LTD Broadband nor Lerman Senter had any knowledge prior to June 21<sup>st</sup> of Mr. Twomey's deceitful actions. We agreed that it was important for Mr. Twomey "to sign a notarized affidavit attesting to the whole CPUC timeline if need be" as he had said he would do, and the next day we requested Mr. Twomey to provide a declaration under penalty of perjury fully describing his improper conduct. Mr. Twomey agreed to do so and executed the Declaration that was filed with the FCC on June 23, 2021.



11. I had no knowledge of Mr. Twomey's actions described in Paragraph 9 of this Declaration until Mr. Hauer and I spoke with him by telephone on the evening of June 21 shortly after receiving his email described in Paragraph 8 of this Declaration.
12. I understand that LTD Broadband has fired Mr. Twomey and engaged experienced California counsel to replace him there.
13. I regret that these circumstances have arisen and have distracted the FCC and the CPUC from other matters. Mr. Twomey, the attorney solely responsible for LTD Broadband's California ETC/CPCN application, had multiple opportunities to inform LTD Broadband of facts known only to him pertaining to that application and to make corrections to the Waiver Request prior to its filing with the FCC. Instead, until confronted by the CPUC on June 21, he continued to compound his initial deceitful misconduct.

  
Stephen Coran

June 28, 2021  
Date

## ATTACHMENT A



## Coran, Steve

---

**From:** Coran, Steve  
**Sent:** Friday, June 4, 2021 7:09 PM  
**To:** Kristopher Twomey; Corey Hauer  
**Subject:** RE: What gives?

Thanks, this is helpful.

### Stephen E. Coran

**Attorney, Lerman Senter PLLC**

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[Twitter](#) | [LinkedIn](#)

**LermanSenter**

**From:** Kristopher Twomey <kris@lokt.net>  
**Sent:** Friday, June 4, 2021 7:02 PM  
**To:** Coran, Steve <SCoran@lermansenter.com>; Corey Hauer <coreyhauer@ltdbroadband.com>  
**Subject:** Re: What gives?

Dunno, the spokesperson is misinformed. Attached is the filing receipt.

Kris

On 6/4/2021 3:57 PM, Coran, Steve wrote:

From Communications Daily:

"The CPUC is reviewing the application and information provided by Hankins," a spokesperson said Friday: SpaceX and five other applications are also under review, and the agency hasn't received applications from LTD Broadband or Commnet Wireless.

### Stephen E. Coran

**Attorney, Lerman Senter PLLC**

2001 L Street NW | Suite 400 | Washington DC 20036

202-416-6744 (d) | 202-669-3288 (m)

[scoran@lermansenter.com](mailto:scoran@lermansenter.com)

[Twitter](#) | [LinkedIn](#)

**LermanSenter**

California Public Utilities Commission  
Electronic Filing Services

PHONE NUMBER:  
415 703-2782



NOTICE FOR: Law Office of Kristopher E. Twomey, P.C.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Confirmation Number:  
0000166546

NOTICE OF RECEIPT OF DOCUMENTS  
VIA ELECTRONIC FILING

Proceeding Number:  
New Filing

Additional Proceeding Numbers:

Client-Matter Name/Number:

Parties:

LTD Broadband LLC

Officially received by the CPUC on:

Monday, 04/26/2021 at 07:30:56 PM

Your email address:

kris@lokt.net

This Filing's Confirmation Number:

0000166546

Your Voice number:

(202) 681 - 1850

Credit Card used:

Case Type:

Formal Proceeding

Fee Tendered - Exact Amount:

\$0.00

Fee Tendered - Not To Exceed Amount:

\$0.00

Forms Received:

Pleadings Received:

LTD Broadband CPCN-ETC Application.pdf - Application (441 KB)  
Exhibits final.pdf - Attachment (921 KB)  
caption.docx.pdf - Attachment (43 KB)

**NOTICE:** This receipt **DOES NOT** constitute acceptance by the CPUC of your documents for filing. This receipt confirms that your filing **HAS BEEN RECEIVED** by CPUC on the date and time indicated. Your Confirmation Number at the top of this receipt, is issued by CPUC, and it should be used in all communications with CPUC regarding this filing. You will receive a separate email notification directly from CPUC when your filing has been Accepted or Rejected.



## ATTACHMENT B

## Coran, Steve

---

**From:** Kristopher Twomey <kris@lokt.net>  
**Sent:** Saturday, June 5, 2021 11:17 AM  
**To:** Coran, Steve  
**Subject:** Re: LTD Broadband Waiver Request -- DRAFT FOR REVIEW  
**Attachments:** LSL2-#372653-v1-LTD\_Broadband\_ETC\_Waiver\_Request- kt edits.docx

Hi Steve, here are my edits. I'll be out for a few hours but back this afternoon if you have any questions on the edits.

Kris

On 6/5/2021 7:22 AM, Coran, Steve wrote:

Kris –

Attached is the waiver request that we need to file Monday. There are a number of places where we need further detail that I hope you can provide – see my questions in the margin. Please send me a redlined version showing your changes; I'll then review, make any clean-ups, and send a clean version to Corey (cc to you) for his review.

I'm hoping you can work on this today (I hate Monday deadlines) so we can identify any loose ends and give Corey an opportunity to review over the weekend. I'm around if you want to go over anything by phone.

Thanks much.

**Stephen E. Coran**

**Attorney, Lerman Senter PLLC**

2001 L Street NW | Suite 400 | Washington DC 20036

202-416-6744 (d) | 202-669-3288 (m)

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[Twitter](#) | [LinkedIn](#)

**Lerman Senter**



**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	AU Docket No. 20-34
	)	
<b>LTD BROADBAND, LLC</b>	)	WC Docket No. 10-90
	)	
Petition of for Waiver of Section 54.804(b)(5) of the Commission's Rules	)	WC Docket No. 19-126
	)	

To: Chief, Wireline Competition Bureau

**PETITION FOR LIMITED WAIVER**

LTD Broadband, LLC ("LTD Broadband"), pursuant to Section 1.3 of the Commission's Rules, hereby respectfully requests waiver of Section 54.804(b)(5) to extend the June 7, 2021 deadline set forth in the *RDOF Auction Closing Notice*<sup>1</sup> for LTD Broadband to certify that it is an eligible telecommunications carrier ("ETC") for the census blocks in various states where LTD Broadband is the auction winner for Rural Digital Opportunity Fund ("RDOF") Phase I support. There is good cause for grant of this waiver because LTD Broadband has demonstrated good faith in seeking ETC approvals and has timely obtained approval in seven states. In any event, Commission staff is continuing to review LTD Broadband's long-form application such that the additional time for the remaining states to approve ETC designation will not delay the deployment of voice and broadband service to eligible locations. Waiver also would be consistent with Commission practice established in connection with the Connect America Fund ("CAF") Phase II program.

**Background and Status**

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<sup>1</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes*, Public Notice, 35 FCC Rcd 13888, 13894 ¶ 17 (WCB 2020) ("Auction Closing Public Notice").

On December 7, 2020, LTD Broadband was announced as a winning bidder in the RDOF Phase I auction in 15 states.<sup>2</sup> LTD Broadband timely filed its long-form application with the Commission and it is being reviewed by Wireline Competition Bureau (“Bureau”) staff. LTD Broadband is finalizing its audit and expects to upload audited financial statements by the same June 7, 2021 deadline in accordance with Section 54.804(b)(4).

Commented [ 1]: Corey – please update this sentence.

On January 6, 2021, LTD Broadband began submitting its petitions and applications for ETC designation with the various states. Despite interventions and opposing comments in some of the states, state public service commissions have made substantial progress in reviewing and approving LTD Broadband’s petitions and applications. As of this date, LTD Broadband has been designated as an ETC for its RDOF census blocks in the following seven states:

Colorado

Illinois (expansion of CAF ETC designation)

Indiana

Minnesota (expansion of CAF ETC designation)

Missouri

Ohio

Wisconsin

For these states, LTD Broadband has uploaded the ETC designation orders, census blocks and certifications into the long-form application, as required by the *Auction Procedures Public Notice*.<sup>3</sup>

Commented [ 2]: Corey – please make sure you’ve done this.

<sup>2</sup> *Id.* at Attachment A.

<sup>3</sup> *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020*, Public Notice, 35 FCC Rcd 6077 (WCB 2020) (“*Auction Procedures Public Notice*”).



The discussion below summarizes the status of LTD Broadband's diligent efforts to obtain ETC designation in the other states. In each case, LTD Broadband is extremely confident that the state commission will designate LTD as an ETC. Upon receiving ETC designation, LTD will promptly upload the required information to its long-form application. LTD Broadband also will keep the Commission apprised on a monthly basis of the status of its outstanding ETC designations.

**California (Docket No. A2106002)**

On January 6, 2021, LTD Broadband's counsel sought guidance from the California Public Utilities Commission ("CPUC") on applications for ETC designations. As an initial matter, it was unclear at the time whether the CPUC would assert or decline jurisdictions over LTD Broadband's ETC designation because LTD Broadband would not be offering any regulated telecommunications service. Upon obtaining guidance from the CPUC, LTD Broadband filed for ETC designation on April 26, 2021. As other RDOF auction winners have noted, however, the California Public Utilities Commission ("CPUC") will only be approving five ETC petitions before the June 7 deadline [check].<sup>4</sup> In each case, the CPUC had previously designated these auction winners as ETCs and they were able to take advantage of the informal Advice Letter process. All other ETC petitions, even those filed within 30 days of the *Auction Closing Public Notice*, will not be approved. The CPUC's Rules of Practice and Procedure establish a deadline of eighteen (18) months to resolve ratesetting proceedings.<sup>5</sup> [check] LTD Broadband's position thus is not unique among RDOF winners for California census blocks. Indeed, the Commission's ECFS database reflects the filing of waiver requests by a number of

**Commented [ 3 ]:** Kris – I am not seeing this in the docket listing, and the statement from the PUC spokesman is troubling. Please also check status of the June 3 Resolution – was it approved?

**Commented [KT4R3]:** I'll check with the Docket Office on Monday morning on this. I'll show up on their doorstep first thing on the way to the office.

**Deleted:** has indicated that it expects to complete processing of the pending ETC petitions within 18 months.

<sup>4</sup> California Public Utilities Commission Resolution T-17735 (June 03, 2021).

<sup>5</sup> California Public Utilities Commission Rules of Practice and Procedure, §2.1(c).

**Deleted:** [reference June 3 order]

other RDOF winners, all of which cite the additional time it will take the CPUC to process, consider and approve ETC designations.<sup>6</sup>

***Iowa (Docket No. ETA-2019-0001)***

As a CAF Phase II recipient for Iowa census blocks, LTD is already designated by the Iowa Utilities Board (“IUB”) as an ETC in Iowa (Docket No. ETA-2019-0001). Accordingly, consistent with the IUB’s rule at 199 Iowa Administrative Code (IAC) 39.3(3)(i), LTD Broadband was required to provide 30 days’ notice before the Commission’s June 7 deadline of its intent to amend the ETC designation. LTD Broadband timely filed its ETC amendment on May 7, 2021.

In a June 4, 2021 Order Requesting Additional Information, the IUB is requiring LTD Broadband to provide additional information within 30 days. This information relates to LTD’s existing ETC application. LTD Broadband expects to provide the requested information well within the 30-day time frame, and expects approval of its ETC amendment shortly thereafter.

***Kansas (Docket No. 21-LTDT-430-ETC)***

In Kansas, LTD Broadband anticipated aggressive intervention similar to what LTD Broadband experienced in Indiana<sup>7</sup> and other RDOF auction winners experienced in Kansas. It retained a former general counsel to the Kansas Corporation Commission (“KCC”) to act as local counsel. Acquiring this level of experience and expertise to address anticipated adverse proceedings took some time. LTD Broadband filed its ETC application with the KCC on May

---

<sup>6</sup> See Cal.Net, Inc. Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed June 3, 2021); Wavelength LLC Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed June 2, 2021); Hankins Information Technology Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed May 25, 2021); One Ring Networks, Inc. Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed May 13, 2021); Etheric Communications, LLC Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed May 12, 2021).

<sup>7</sup> [add footnote referencing IN proceedings and KS interventions involving Resound and AMG].



19, 2021. LTD Broadband anticipates that this application will be approved within the next 60-90 days.

**Nebraska (Docket No. C-5256 NUSF-130)**

Nebraska Public Service Commission ("NPSC") staff advised LTD Broadband on May 5, 2021 that the NPSC has a 30-day approval process for ETC applications. LTD Broadband filed its ETC application on April 28, 2021, in sufficient time to meet the June 7 deadline. On May 7, 2021, 2021, the NPSC set an application protest deadline for June 7, 2021. No interventions or protests have been filed as of this date. LTD Broadband expects the ETC application to be approved at either the June 8, 2021 or June 29, 2021 NPSC commission meeting.

Deleted: [ ]

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Commented [ 5]: Kris – Please add dates, references to orders and other details.

**North Dakota (Docket No. PU-21-168)**

On January 20, 2021, staff of the North Dakota Public Service Commission ("NDPSC") called counsel for LTD Broadband and advised that it has a 30-day ETC application approval process (similar to Nebraska's process). LTD Broadband filed its ETC application on May 7, 2021, in sufficient time to meet the June 7 deadline, and submitted a map of the proposed ETC area on May 17, 2021. On June 3, 2021, 2021, commission staff notified LTD Broadband that the NDPSC would issue a "notice of opportunity for hearing" on June 9, 2021 that would allow intervention requests until July 19, 2021. LTD Broadband does not anticipate any intervention and expects approval at the NDPSC's August 4, 2021 meeting if not sooner.

Deleted: [ ]

Deleted: informed

Deleted: [ ]

Commented [ 6]: Kris – please provide dates, and details on how you were informed of the time table.

Commented [ 7]: Kris – Please update. Also, looks like OCC requires a CCN as well. What is the status of that?

Commented [KT8R7]: David said he'd have both on file by 6/4. I'll check with him again on Monday so hopefully we at least have docket numbers.

**Oklahoma**

As in Kansas, LTD Broadband anticipated aggressive intervention. It retained a former head of the telecommunications division of the Oklahoma Corporation Commission ("OCC") to act as local counsel. Acquiring this level of experience and expertise to address anticipated

adverse proceedings took some time. LTD Broadband expects to file its ETC application in the very near future.

LTD Broadband notes that, even if it had filed its ETC application within the 30-day period following the *Auction Closing Public Notice*, its application would not be approved by this time. Another RDOF long-form application, Resound Networks, LLC, filed its ETC application on January 5, 2021, but its June 4, 2021 petition for waiver indicates that it is pending as of this date.<sup>8</sup>

**South Dakota (Docket No. TC21-0001)**

LTD Broadband filed its ETC application with the South Dakota Public Service Commission (“SDPSC”) on January 6, 2021. On January 27, 2021, the South Dakota Telecommunications Commission (SDTA”) filed a petition to intervene, which the SDPUC granted on February 22, 2021. Since that time, LTD Broadband has responded to a discovery request from SDPUC staff and two discovery requests from the SDTA. Just last week, on June 2, 2021, the SDTA issued a third discovery request. LTD has until July 2, 2021 to respond to the discovery request, but expects to do so well before that date.

On April 12, 2021, LTD filed an application for a Certificate of Authority (Docket No. TC21-014). The SDTA has filed to intervene in that proceeding as well.

LTD Broadband is engaged with SDPUC staff and SDTA in an effort to resolve the proceedings through stipulation. At this time, it is not known whether and to what extent either or both of the proceedings will be resolved without hearing. At this time, LTD Broadband estimates that it will receive approval of both applications by the end of August.

**Texas (Docket No. 51693)**

<sup>8</sup> See Resound Networks, LLC Petition for Waiver, AU Docket No. 20-34 and WC Docket Nos. 10-90 & 19-126 (filed June 4, 2021).

**Commented [ 9]:** Kris – I haven't seen the final order. If you have, please send to me and move Texas to the approved column and delete this paragraph.

**Commented [KT10R9]:** We need clarification from the PUC as to whether an order signed by the ALJ that says “sufficient” equals approved. That was the last order I got on another Texas ETC application.



LTD Broadband filed its ETC application with the Texas Public Service Commission ("TPUC") on January 7, 2021. On May 13, 2021, following LTD Broadband's submission of requested supplemental information, TPUC staff recommended approval of ETC's application. The sole remaining step is for the administrative law judge to issue a final order approving ETC designation. LTD Broadband expects approval very soon.

On January 5, 2021, LTD Broadband filed an application with the OCC requesting ETC designation (Docket 2021-00009). LTD Broadband responded to OCC discovery in the ETC docket on January 20, 2021, February 12, 2021 and March 24, 2021. On February 11, 2021, a representative of 11 rural Oklahoma telecommunications carriers entered an Appearance. Discussions with the representative for the rural carriers resulted in LTD Broadband revising the list of telecommunications carriers within its requested Oklahoma designated service area. LTD Broadband amended the application on March 12, 2021.

Overall, LTD has received ETC designations in seven states, and several more should be approved in the coming days and weeks. In some states, petitions to intervene and multiple discovery requests have slowed the approval process. Other than California, LTD Broadband expects to receive ETC designation orders for all remaining states by the end of August. LTD Broadband has no reason to believe that any state will dismiss or deny its ETC application.

#### **Discussion**

##### **I. THERE IS GOOD CAUSE FOR GRANT OF THE REQUESTED WAIVER**

The Commission may waive a rule for good cause shown.<sup>9</sup> Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."<sup>10</sup> The

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<sup>9</sup> See 47 C.F.R. § 1.3.

<sup>10</sup> See *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

Commission may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest than strict adherence to the general rule.<sup>11</sup> The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>12</sup>

First, in several states, filed its ETC application with the OCC within 30 days from the release of the *Auction Closing Public Notice*. In others, LTD Broadband filed within 30 days of the June 7 deadline consistent with state commission guidelines. In other states, LTD Broadband made the decision to defer filing for strategic reasons. The Commission has recognized that some state commissions might be unable to approve ETC status within 180 days (by June 7, 2021) of the *Auction Closing Public Notice*. The Commission stated that a waiver of the 180-day deadline would be appropriate if an applicant has an ETC application pending with a state commission but a vote to approve the application would not occur until after June 7, 2021, and “will presume that an entity acted in good faith if the entity files its ETC application **within 30 days** of the release of this Public Notice.”<sup>13</sup> That is the case here in a number of states – LTD Broadband filed its ETC application within 30 days of the *Auction Closing Public Notice*, but the state commissions have not finalized approval (e.g., South Dakota). In other states (e.g., California and Oklahoma), even if LTD Broadband had filed its ETC application within 30 days of the *Auction Closing Public Notice*, it would be in the same position, along with other long-form applicants that also have sought waiver.

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<sup>11</sup> See generally *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT Radio*”).

<sup>12</sup> See *id.* at 1159; *Northeast Cellular* at 1166.

<sup>13</sup> *Auction Closing Public Notice* at 13901 ¶ 37 (emphasis in original).

Second, in many cases the inability of LTD Broadband to obtain ETC status by the June 7 deadline is beyond LTD Broadband's control. LTD Broadband has faced intervention and discovery requests from state commission staff and intervenors, and has responded in every case. LTD Broadband will continue to diligently respond to all discovery and informational requests in an effort to expedite approvals in the remaining states.

The circumstances described above fall squarely within the "good faith" basis described in the *Auction Closing Public Notice*. Commissions in seven states have issued orders approving LTD Broadband as an ETC, and there is every reason to believe that the remaining states will follow suit. When LTD Broadband is designated as an ETC in the remaining states, it will promptly upload the order, census blocks and certification to its long-form application. There thus is good cause for the Bureau to waive Section 54.805(b)(5).

## **II. GRANT OF A WAIVER WOULD BE IN THE PUBLIC INTEREST AND CONSISTENT WITH COMMISSION PRACTICE**

Extending the deadline for LTD Broadband to obtain and submit proof of its ETC designation is warranted because it serves the public interest by preventing LTD Broadband from relinquishing the opportunity to obtain RDOF support. The policy goal for the RDOF program is to support the deployment of broadband and voice services as expeditiously as possible to unserved and underserved areas. LTD Broadband successfully bid for support in seven states, and only one state has not timely approved LTD Broadband as an ETC as of this date. LTD Broadband is committed to its deployment obligations and is working with Commission staff to finalize its long-form application. Denying waiver of Section 54.805(b)(5) would delay the deployment of voice and broadband service to [how many?] rural locations, a draconian result that would be inconsistent with the public interest and Commission practice.



In the CAF program, the Bureau consistently waived the ETC certification deadline, determining that the benefits of additional time outweighed strict compliance with the deadline. For example, in determining that it was ready to authorize Wisper ISP, Inc. (“Wisper”) for support, the Bureau, over the objection of a third party, stated that “[e]ven though Wisper did not file its ETC petition within the 30-day time-frame, we find Wisper’s delay does not rise to the level of lack of good faith that should result in its default.”<sup>14</sup> The Bureau cited “the totality of the circumstances” and found that “Wisper’s late-filed ETC designation did not delay the Commission’s long-form application review process or the provision of voice and broadband services to consumers living in the areas where Wisper was awarded support.”<sup>15</sup>

Likewise, the Bureau granted a waiver of the ETC certification deadline to Plains Internet, LLC (“Plains Internet”), a CAF auction winner that filed its ETC application after the 30-day period following the auction closing public notice. Plains Internet demonstrated that the basis for its filing on that date was a lack of understanding that the state had ETC jurisdiction, circumstances similar to those present here. The Bureau made clear that “Plains Internet acted diligently in attempting to obtain its ETC designation prior to the deadline” and “[t]he late-filing of this ETC application did not delay the Commission’s long-form application review process or the provision of voice and broadband services to consumers living in the areas where the long-form applicant was awarded support.”<sup>16</sup>

The Bureau should make the same finding here, especially since LTD Broadband filed within the 30-day period in a number of states and Commission staff has not completed review

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<sup>14</sup> *Connect America Fund Phase II Auction Support for 2,121 Winning Bids Ready to Authorize*, Public Notice, 34 FCC Rcd 12384, 12385 (WCB 2019).

<sup>15</sup> *Id.* at 12386.

<sup>16</sup> *Connect America Fund Phase II Auction Support for 611 Winning Bids Ready to be Authorized*, Public Notice, 34 FCC Rcd 4648, 4649 (WCB 2019) (citation omitted).

of its long-form application. The “good faith” standard is unchanged, and the Commission has not signaled any intent to change its policy of granting waivers of the ETC designation deadline. LTD Broadband is working diligently to meet all Commission and state commission deadlines associated with its long-form application in an effort to gain ETC designations in the remaining states as soon as possible. Further, Commission staff has not completed its review of LTD Broadband’s long-form application. In these circumstances, it would be consistent with the public interest and past practice for the Bureau to grant of the requested waiver.

LTD Broadband will use RDOF support to deploy voice and Gigabit broadband facilities and services to more than [how many?] residential and business locations in rural and remote areas of the country that currently lack adequate service. A brief delay in receiving ETC designation from the remaining state commissions should not undermine the benefits LTD Broadband intends to provide.

#### **Conclusion**

For the foregoing reasons, LTD Broadband respectfully requests the Bureau grant this Petition and waive Section 54.804(b)(5) as it relates to the June 7, 2021 deadline by which LTD Broadband is required to show proof of ETC designation from the states where it has not yet received ETC approval.

Respectfully submitted,

**LTD BROADBAND, LLC**

June 7, 2021

By: /s/ Stephen E. Coran  
Stephen E. Coran  
Lerman Senter PLLC  
2001 L Street, NW, Suite 400  
Washington, DC 20036  
(202) 416-6744

and

By: /s/ Kristopher E. Twomey  
Kristopher E. Twomey  
Law Offices of Kristopher Twomey  
1725 I Street, NW, Suite 300  
Washington, DC 20006  
[kris@lokt.net](mailto:kris@lokt.net)  
*Counsel for LTD Broadband, LLC*



## ATTACHMENT C

## Coran, Steve

---

**From:** Kristopher Twomey <kris@lokt.net>  
**Sent:** Monday, June 21, 2021 5:58 PM  
**To:** Coran, Steve; Corey Hauer  
**Subject:** Fwd: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission  
**Attachments:** CPUC filing receipt- efile.pdf; Exhibits final.pdf; LTD Broadband CPCN-ETC Application.pdf; LTD Broadband CPCN-ETC Application.DOCX

Hey guys- we have a problem here and need to talk about strategy.

The CPUC is reversing themselves from the email below and now says I didn't file in April. Helen essentially called me a liar on a call this morning. She said the Docket Office had no record of the April 28 filing made via mail. Apparently, the CPUC wasn't accepting paper mail filings at the time due to Covid, but the post office didn't return it to me. I got no info from the docket office so to be sure we had something on file by the 7th, I successfully filed electronically on the night of June 3rd. They do admit having record of that but still have not given it a docket number. The one that is in the FCC waiver was the next available docket number at the time. I sent you guys the wrong CPUC confirmation as well- that was for my records only. I meant to send the one confirming the filing of the 3rd and it is attached. I planned on circling back with the docket office to have the date corrected when they finally unearthed my mailed filing. That, of course, isn't going to happen now.

She said my explanation did not hold water and that the claims in the waiver for California are therefore a "real problem" and that the Commission hasn't decided if or how to address it. I can't say I blame her. Even as I type all this, I can see her point that it all sounds like a bunch of b.s. But it is the truth and I think we need to prepare to get ahead of it best we can. Two immediate suggestions:

First- I should withdraw as counsel for the CPUC application and get as far away from it as possible to avoid any more processing delays or bias. It's already been 17 days since re-filing with no action. Steve should enter an appearance as substitution of counsel. The application and exhibits are attached. I'm happy to assist in the background as needed.

Second- We should supplement the FCC waiver again with the facts before the CPUC can cause any trouble. I am happy to sign a notarized affidavit attesting to the whole CPUC timeline if need be.

Corey- I will be returning the final installment check for \$16k to cover the CPUC flat fee costs and Indiana's as well, since my participation there was really limited to introducing Nikki.

I apologize for this mess and am open to addressing it however will work best. If that involves publicly throwing me under the bus, I am totally fine with that. My only goal is for LTD to get its full RDOF funding however that may be accomplished. Let's set up a time to talk as soon as is convenient. I'm available after 3:30pst today or anytime tomorrow.

Kris

----- Forwarded Message -----

**Subject:**RE: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission  
**Date:**Wed, 9 Jun 2021 22:20:45 +0000  
**From:**Coran, Steve <[SCoran@lrmansenter.com](mailto:SCoran@lrmansenter.com)>  
**To:**Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>  
**CC:**[kris@lokt.net](mailto:kris@lokt.net) <[kris@lokt.net](mailto:kris@lokt.net)>

Thanks, Helen, we appreciate the confirmation and the follow-up.

**Stephen E. Coran**

**Attorney, Lerman Senter PLLC**

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**LermanSenter**

**From:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>

**Sent:** Wednesday, June 9, 2021 6:16 PM

**To:** Coran, Steve <[SCoran@lermansenter.com](mailto:SCoran@lermansenter.com)>

**Cc:** [kris@lokt.net](mailto:kris@lokt.net)

**Subject:** Fw: [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

Mr. Twomey and Mr. Coran -

This e-mail is to confirm that CPUC Communications Division staff have informed Michael Janson at the FCC that LTD Broadband did file with the CPUC an application for a CPCN and for ETC designation, dated April 26, 2021. Mr. Janson confirmed receipt of our e-mail. Both e-mails appear below.

We are still trying to determine why the Communications Division was not informed of the application, which was not assigned a docket number until early June. We will report back when we have an answer.

Helen M. Mickiewicz  
CPUC Legal Division  
Assistant General Counsel  
415.703.1319  
[Helen.mickiewicz@cpuc.ca.gov](mailto:Helen.mickiewicz@cpuc.ca.gov)

---

**From:** Michael Janson <[Michael.Janson@fcc.gov](mailto:Michael.Janson@fcc.gov)>

**Sent:** Tuesday, June 8, 2021 6:19 PM

**To:** Pratt, Peter <[Peter.Pratt@cpuc.ca.gov](mailto:Peter.Pratt@cpuc.ca.gov)>

**Cc:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>

**Subject:** [EXTERNAL] RE: LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Peter,

Thank you for confirming and for your efforts in this regard. It is very much appreciated.

If we have any further questions, we will be in touch.



Best,  
Michael

Michael A. Janson | Director | Rural Broadband Auctions Task Force | Assistant Chief | Office of Economics and Analytics |  
Federal Communications Commission | (202) 418-0627 |

**From:** Pratt, Peter <[Peter.Pratt@cpuc.ca.gov](mailto:Peter.Pratt@cpuc.ca.gov)>  
**Sent:** Tuesday, June 8, 2021 8:46 PM  
**To:** Michael Janson <[Michael.Janson@fcc.gov](mailto:Michael.Janson@fcc.gov)>  
**Cc:** Mickiewicz, Helen M. <[helen.mickiewicz@cpuc.ca.gov](mailto:helen.mickiewicz@cpuc.ca.gov)>  
**Subject:** LTD Broadband LLC: ETC Filing Status, California Public Utilities Commission

Hello Michael,

Thank you again for reaching out and requesting confirmation of the ETC filing status of LTD Broadband LLC (LTD).

As part of a thorough investigation of this matter here at CPUC following our telephone call of this morning, our Assistant General Counsel Helen Mickiewicz spoke with LTD's counsel Steven E. Coran. Attorney Coran produced the attached receipt generated by the CPUC's Electronic Filing Services platform, dated 04/26/2021. The receipt shows that counsel to LTD, Kristopher E. Twomey, filed a document entitled *LTD Broadband CPCN-ETC Application* on that date, along with a single document containing multiple *Exhibits*.

Helen Mickiewicz communicated to Steven Coran that CPUC staff is not aware of how or why the LTD filing was not correctly forwarded to staff for our review. Counsel assured LTD's attorney that we will determine what happened.

Following our internal investigation of this matter, the communications between counsel Mickiewicz and attorney Coran, and counsel's statements to me, I can now report to you that LTD Broadband LLC did file on 04/26/2021 a combined application for CPCN / ETC certification with CPUC.

Please don't hesitate to reach me with any additional questions that you may have. - Peter

Peter Pratt  
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